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FILEDSuperior Court of California
County of Los Angeles

JUN 23 2017

Sherri R. Carter, Executive Officer/Clerk

By M. Soto, Deputy
Moses Soto

By Fax

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6
7 **55 - Mackey**
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**9 **FOR THE COUNTY OF LOS ANGELES**10 Jack Eskenazi, an individual doing business
11 as American Health Care Capital.

12 Plaintiff.

13 vs.

14 Rural Community Hospitals Of America, a
15 business entity, type unknown; Empower
16 Healthcare, LLC, a Florida Limited
17 Liability Company; Rural Health Partners,
18 LLC, a Florida Limited Liability Company;
19 Paul L. Nusbaum, an individual and Jorge A.
20 Perez, an individual and Does 1-50.

21 Defendants.

22 CASE NUMBER: **BC 6 6 6 2 7 0**

23 Complaint for:

- 24 1. Breach of Contract
- 25 2. Breach of Contract
- 26 3. Intentional Misrepresentation
- 27 4. Unfair Competition
- 28 5. Declaratory Relief

CIT/CASE: BC666270
LEA/DEF#:RECEIPT #: CCHS24880094
DATE PAID: 06/23/17
PAYMENT: \$435.00
RECEIVED:CHECK: \$435.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.0001:57 PM
310

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Complaint

06/23/2017

FIRST CAUSE OF ACTION**BREACH OF CONTRACT****(AGAINST RURAL COMMUNITY HOSPITALS OF AMERICA)**

COMES NOW Jack Eskenazi d/b/a American Healthcare Capital (hereinafter "Plaintiff"):

1. Plaintiff Jack Eskenazi is a resident of the State of California, County of Los Angeles and conducts business as American Health Care Capital.

2. Plaintiff is a nationwide mergers and acquisitions firm focused on the health care industry. It engages in a wide variety of financial transactions in that field. It has been in business for about 25 years and has advised on hundreds of medically related transactions including debt financing, asset sales mergers and acquisitions, joint ventures and partnerships. It has a deep knowledge of the medical field, from a financial aspect and is well known in the industry. Its contacts in its unique industry are unmatched by its peers.

3. Plaintiff is engaged by others in its field to assist, in a variety of ways, in financial planning and strategic consultation. Some of its clients are often in financial distress so they reach out to Plaintiff to devise ways to becoming financially healthy and sound.

4. Defendant Rural Community Hospitals of America, is a business entity type unknown. On information and belief it is a financing and operating company which operates and manages small rural hospitals. It also assists in providing new hospitals to replace older hospitals. On information and belief its President and co-owner is

1 Paul L. Nusbaum.

2 5. Empower Healthcare, LLC, is on information and belief, a Florida Limited
3 Liability Company providing a range of health care services in the United States. On
4 information and belief its managing member is Jorge A. Perez.

5 6. Rural Health Partners, LLC is, on information and belief, a Florida Limited
6 Liability Company operating in the health care business. On information and belief
7 it's managing member is Jorge A. Perez. On information and belief both Empower
8 Healthcare, LLC and Rural Health Partners are controlled by Jorge Perez and are a "
9 joint business enterprise" as that term is defined at law. On information and belief,
10 there is a unity of interest and unity of control between Jorge Perez, Rural Health
11 Partners and Empower Healthcare so as to render any distinction between them to be
12 meaningless. In effect all of the members of the single business enterprise were one
13 single business enterprise. Inequity would follow if the distinctions were to be
14 maintained. Hereinafter Jorge Perez, Rural Health Partners and Empower Healthcare
15 shall collectively be referred to as the "Perez Defendants".

16 7. The true names and capacities, whether individual, corporate, associate or otherwise,
17 of defendants named herein as Does 1 through 50, inclusive, are unknown to Plaintiff
18 who therefore sues said defendants by such fictitious names and will seek leave of
19 court to amend this complaint to insert their true names and capacities when such has
20 been ascertained.

21 8. Plaintiff is informed and believes and thereon alleges that each of the
22 fictitiously named defendants is responsible, negligently, or in some other actionable
23 manner or legal theory, for the events and happenings alleged herein which
24 proximately caused injury to Plaintiff as alleged herein.

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1 9. At all times relevant herein, the defendants, and each of them, were the agents,
2 representatives, servants, employees, assistants and the like of their co-defendants, and
3 were, as such, acting within the course and scope of such agency, representation
4 and/or employment and with the permission, authority, knowledge and consent of the
5 other defendants; that each and every defendant was negligent in the selection, hiring,
6 monitoring, supervising and/or continued employment of each and every other
7 defendant as an agent, representative, servant, employee and/or assistant.

8 10. Plaintiff is informed and believe and thereon allege that each of the defendants
9 named herein or designated as a Doe was negligently, wantonly, recklessly,
10 maliciously and otherwise tortuously responsible in some manner for the events and
11 happenings herein referred to and negligently, wantonly, recklessly, maliciously and
12 otherwise tortuously proximately caused the injuries and damages to Plaintiff as
13 alleged herein.

14 11. All acts alleged acts alleged herein unless otherwise specified occurred in the
15 County of Los Angeles, State of California. As such the court has personal
16 jurisdiction over the defendants in this matter pursuant to California Code of Civil
17 Procedure Section 410.10.

18 12. In early 2016 RCHA was in financial distress with the real possibility of a
19 bankruptcy filing or the closing of some of the hospitals RCHA operated. At that time
20 RCHA could not obtain financing for a term loan or accounts receivable financing .
21 In these circumstances and in these dire straits, RCHA reached out to Plaintiff in an
22 attempt to relieve its financial pressure and avoid an economic disaster.

23 13. On or about January 27, 2016 Plaintiff and RCHA entered into a written agreement
24 entitled "NON-EXCLUSIVE FINDER'S FEE AGREEMENT FOR THE SALE OF
25 A MEDICAL BUSINESS OPPORTUNITY" (hereinafter "RCHA" agreement) A true
26 and correct copy of the RCHA Agreement is attached hereto as Exhibit 1
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1 14. Under the RCHA agreement, Plaintiff would provide a variety of financial services
2 to RCHA in exchange for which Plaintiff would be paid according to the nature of the
3 services provided.

4 15. Plaintiff has performed all of his obligations under the RCHA Agreement other
5 than those obligations excused or waived by RCHA.

6 16. The services provided by Plaintiff to RCHA included financial and strategic
7 advice and the introduction of RCHA to the Perez Defendants.

8 17. On information and belief RCHA and the Perez Defendants have entered into an
9 agreement pursuant to which they are jointly engaged in a business enterprise.
10 Attached hereto as Exhibit 2 is an unsigned letter of intent between RCHA and Rural
11 Health Partners, LLC indicating the existence of a business arrangement between
12 RCHA and the Perez Defendants. On information and belief those defendants have
13 entered into a joint venture or a form of business enterprise in the medical field

14 18. The introduction of Perez to RCHA is a service which entitles Plaintiff to a fee
15 under the RCHA Agreement

16 19. RCHA has refused to pay Plaintiff the fee which is due and owing to Plaintiff and
17 as a result RCHA is in breach of its obligations under said Agreement.

18 20. As a direct and proximate result of actions of the acts of RCHA, Plaintiff has
19 suffered damages in the amount which is currently un-ascertained. Plaintiff will seek
20 leave of Court to amend this amount has been determined.

21 21. Under section 12 of the RCHA agreement if legal action is instituted by either
22 party to the RCHA agreement the "losing party" shall pay the legal fees of the
23 prevailing party. Plaintiff has been required to retain attorney's to file and maintain
24 this action and is entitled to recover his legal fees and costs from the RCHA.

SECOND CAUSE OF ACTION

(For Breach of Contract)

(Against Jorge Perez, Empower and Rural Health Partners)

22. Plaintiff repeats and re-alleges the allegations of Paragraphs 1 through 21 above, as though set forth in full herein.

23. On or about July 8, 2016 Plaintiff and Empower Healthcare entered into an Agreement (hereinafter "Empower Healthcare Agreement"). A true and correct copy of the Empower Healthcare Agreement is attached hereto as Exhibit 3. Thereafter on or about October 31, 2016 Plaintiff and Rural Health Partners entered into an agreement (A true and correct copy of the Rural Health Partners Agreement is also attached as Exhibit 3. (Henceforth the Empower Health Care Agreement and the Rural Health Partners Agreement shall be collectively be referred to as the "Perez Agreements")

24. Under the Perez Agreements, Plaintiff would share certain confidential information with Empower and Rural Health Partners concerning a "10 hospital business opportunity" identified in the agreements as XYHP1A. This is the code assigned to RCHA by Plaintiff.

25. Under the Perez Agreements, the Perez Defendants recognized Plaintiff as the procuring cause for the business opportunity. As such, if any of the Perez Defendants circumvented Plaintiff in connection with the RCHA then each Perez Defendant would owe Plaintiff the same amount to which Plaintiff was entitled under its agreement with RCHA. The Perez Defendants effectively acted as guarantors of the commission Plaintiff was entitled to under the RCHA agreement.

26. Plaintiff has performed all of his obligations under the Perez Agreements other than those obligations excused or waived by the Perez Defendants.

1 27. One of the services provided by Plaintiff to the Perez Defendants, including
2 Empower, was to introduce them to RCHA

3 28. On information and belief RCHA and Empower have entered into an agreement
4 pursuant to which they are engaged in a business enterprise. Attached hereto is an
5 unsigned letter of intent between RCHA and Rural Health Partners indicating a
6 business arrangement between RCHA and the Perez Defendants. On information and
7 belief those defendants have entered into a joint venture in the medical field.

8 29. The introduction of RCHA to the Perez Defendants is a service which entitles
9 Plaintiff to a fee under the RCHA Agreement.

10 30. RCHA has refused to pay Plaintiff the fee which is due and owing to Plaintiff and
11 as a result RCHA is in breach of its obligations under said Agreement.

12 31. The Perez Defendants have refused to pay to Plaintiff the commission due to
13 Plaintiff under the RCHA agreements and which RCHA has refused to pay. Under
14 the Perez Agreements, that commission is now due and owing to Plaintiff by the Perez
15 Defendants.

16 32. As a direct and proximate result of actions of the acts of the Perez Defendants,
17 Plaintiff has suffered damages in the amount which is currently un-ascertained.
18 Plaintiff will seek leave of Court to amend this amount has been determined.
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THIRD CAUSE OF ACTION

(For Fraud -Intentional Misrepresentation)

(Against RCHA and Paul Nusbaum)

33. Plaintiff repeats and re-allege the allegations of Paragraphs 1 through 32 above, as though set forth in full herein.

34. In order to induce Plaintiff to execute the RCHA Agreement Paul Nusbaum made certain representations to Jack Eskenazi. These representations were made shortly before the RCHA Agreement was executed in a series of phone calls between Mr. Nusbaum and Mr. Eskenazi.

35. Their representations included but were not limited to the following:

- a. That RCHA would pay the fees required of it under the RCHA Agreement.
- b. That if Plaintiff provided the services that RCHA requested, RCHA would account for all benefits that RCHA received, disclose those benefits and as a result compensate Plaintiff in a manner consistent with the RCHA agreement.
- c. That RCHA would not go "behind Plaintiff's back" and enter into a business arrangement without notifying Plaintiff of the existence of, and details about, that business arrangement.

36. Each of the representations and failures to disclose were false at the time RCHA and Nusbaum made them and RCHA and Nusbaum knew said representations were false at the time they were made.

37. The representations and failures to disclose were made in order to induce the reliance of Plaintiff on said statements and induce Plaintiff to execute the RCHA Agreement, provide services and take other actions to Plaintiff's detriment.

38. Plaintiff justifiably relied on the representations and performed the services, and incurred related costs as a result thereof.

1 39. In truth and in fact:

2 a. RCHA had no intention of paying fees required of it under the RCHA agreement.

3 b. RCHA has never accounted, and did not intend to account, for the RCHA benefits
4 that RCHA received under the RCHA Agreement. In short, RCHA and Nusbaum
5 intended to and did keep Plaintiff in the dark because RCHA and Nusbaum wanted to
6 avoid paying the fees owed to Plaintiff.

7 c. RCHA and Nusbaum went "behind Plaintiff's back" and entered into a business
8 arrangement with the Perez defendants without notifying Plaintiff of the existence of,
9 and details about, that business arrangement. This is fundamental to Plaintiff's
10 business model since Plaintiff relies on the full disclosure of clients like RCHA to find
11 out what agreements, if any, clients like RCHA have entered into. Without a full
12 disclosure by clients like RCHA, it is sometimes impossible to find out about these
13 agreements with third parties.

14 40. As a proximate result of the foregoing, Plaintiff has suffered
15 damages in an amount of at least \$10,000,000 but in an actual amount presently
16 unknown. Plaintiff will seek leave of court to amend this Complaint when said
17 amount has been ascertained.

18 41. Upon information and belief, the foregoing acts of RCHA and Nusbaum were
19 despicable, oppressive and fraudulent, and were committed willfully and with
20 conscious disregard of Plaintiff's rights and with the intention of depriving Plaintiff
21 of its legal and property rights, or otherwise causing Plaintiff injury. By reason
22 thereof, Plaintiff is entitled to an award of punitive and exemplary damages pursuant
23 to California Civil Code § 3294 in an amount sufficient to punish RCHA and
24 Nusbaum, and each of them, and to deter similar conduct in the future, according to
25 the wealth of RCHA and Nusbaum, and each of them, as proven at trial.
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FOURTH CAUSE OF ACTION

(For Unlawful Business Practices-Against All Defendants)

42. Plaintiff repeats and re-alleges the allegations of Paragraphs 1 through 41 as though set forth in full herein.

43. The actions and representations of the defendants, as described herein were unlawful business practices within the meaning of California Business and Professions Code Section 17200 *et seq.*

FIFTH CAUSE OF ACTION

(For Declaratory Relief-Against All Defendants)

44. Plaintiff repeats and re-alleges the allegations of Paragraphs 1 through 43 as though set forth in full herein.

45. A dispute has arisen between the parties concerning their respective rights and obligations under the agreements referred to herein. That dispute includes whether any present and future business arrangement between RCHA and the Perez Defendants requires the payment of monies to Plaintiff.

46. Plaintiff seeks a determination by this Court as to those rights and obligations as they relate to past and future transactions between RCHA and the Perez Defendants.

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1 **PRAYER:**

2 **ON THE FIRST CAUSE OF ACTION**

- 3 1. For the sum of \$10,000,000.
- 4 2. For additional compensatory and general damages according to proof;
- 5 3. For consequential damages according to proof; and

6 **ON THE SECOND CAUSE OF ACTION**

- 7 1. For the sum of \$10,000,000.
- 8 2. For compensatory and general damages according to proof;
- 9 3. For consequential damages according to proof; and

10 **ON THE THIRD CAUSE OF ACTION**

- 11 1. For the sum of \$10,000,000
- 12 2. For compensatory and general damages according to proof;
- 13 3. For consequential damages according to proof; and
- 14 4. For punitive damages according to proof

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16 **ON THE FOURTH CAUSE OF ACTION**

- 17 1. For the sum of \$10,000,0000
- 18 2. For additional compensatory and general damages according to proof;
- 19 3. For consequential damages according to proof; and
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21 **ON THE FIFTH CAUSE OF ACTION**

- 22 1. For declaratory relief as to the rights and obligations of the parties under
- 23 the agreements referred to herein; and

ON ALL CAUSES OF ACTION

1. For costs of suit;
2. For attorney's fees and costs; and
3. For such other relief as may be just and proper.
4. For an accounting which would include all benefits the defendants received, or are pending, or are contingent, for the breach of their obligations as described herein.

DATED: June 23, 2017

LAW OFFICES OF JONATHAN MARK LAVATION

By: 

JONATHAN MARK LEVITAN
Attorneys for Plaintiff Jack Eskenazi, d/b/a
American Health Care Capital,